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**APR 15 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Mastri et al. :  
Application No. 09/625,886 : ON PETITION  
Filed: July 26, 2000 :  
For: SURGICAL STAPLER :

This is a decision on the Petition for an Unintentionally Delayed Benefit Claim Pursuant to 37 CFR 1.78(a)(3), filed January 31, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior filed nonprovisional application, number 08/546,253, filed October 20, 1995, which is properly treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), for correction of the claim of priority in the above-identified application.

This Petition is hereby **dismissed as moot.**

Applicable Law

The instant application was filed on July 26, 2000. Petitions under 37 CFR 1.78(a)(6) for acceptance of a delayed priority claim under 35 U.S.C. § 119 and under 37 CFR 1.78(a)(3) for acceptance of a delayed priority claim under 35 U.S.C. § 120 are only applicable to those applications filed on or after November 29, 2000. See MPEP § 201.11 and 65 FR 57024 (Sept. 20, 2000). Therefore, the petition is dismissed as involving a moot issue.

In view of the above, the petition fee, \$1370.00, has been refunded to Petitioner's Deposit Account as authorized in the instant petition.

The application file is being referred to Technology Center Art Unit 3721 for processing of the amendment.


Further correspondence with respect to this matter should be addressed as follows:

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